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ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

AUG 06 2018

at 4 o'clock and 00 min. P.M.  
SUE BEITIA, CLERK  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

GARY Feliciano

Petitioner

vs.

SCOTT HARRINGTON, Warden,  
Hawaii Correctional Facility (H.C.F.)  
99-902 Monialua Rd,  
Aiea, HAWAII 96701

H.C.F. Program Administration Gary  
Kaplan, Module 3, B-Block Case  
Managers Paul Niesen, Unit Managers  
Luis Lepule, Module 4, Case Manager  
Megyn Owens, H.C.F. Administration  
To Dovic Borges

STATE OF HAWAII

Respondents

Civil No. CV18 00299 DKW/KJM

Petitioner Gary Feliciano, deposed  
of, and Disseminated upon by Hala-  
wa Correctional Facility's Programs  
Administrator, Facility's Administra-  
tion, Case Managers and Unit Managers  
To Accommodate an Inmate with  
Disabilities. Moving him from #13 block  
to #16 violate "Equal protection" of  
the Law. Discriminate for unequal  
Treatment. Declaration in Support  
by Petitioner Gary Feliciano Please

CERTIFICATE OF SERVICE

NOTICE OF MOTION

Civil No.

Persecutor Gary Feliciano, deprived of, and discriminated upon by  
Hawkins Correctional Facility's Program Administrator, Facility's Admini-  
strator, Case Managers and Unit Managers to Accommodate an Inmate  
with Disabilities, Moved him From #13 block to #16 Violate "Equal Pro-  
tection" of The Law. Discriminate For Unegual Treatment. Declara-  
tion In Support by Persecutor Gary Feliciano  
Prode

Certificate of Service

Notice of Motion

Declaration In Support

Comes Now Persecutor Gary Feliciano is an Inmate of THE STATE  
of Hawkes House at THE Hawkins Correctional Facility, 99-902 Manu-  
lion Rd, Aten, Hawkes, Module 3, B-Block Cell #9, Quad 1.

1. This COMPLAINT STENS by Request Persecutor Feliciano Submitted  
To be placed in 2.5 Drug Treatment Programs THAT THE Hawkes Proctary  
Authority's Board Recommended before Panels.
2. Many Months of being Whipped Smoked by disapproved Inmate  
Requestis, THE Last is "Shut your Mouth and Unit"
3. Well, Persecutor Feliciano is not a person To Shut his Mouth when he

Witness programs failure in Front Prisoner, jump in Front of him and is back out on Parole Again.

4. Before Continuing; Jurisdiction

The Court has Jurisdiction over the Petitioner's Claim of Violation of Federal Constitutional Rights Under 42 U.S.C. § 1983, 42 U.S.C. §§ 1331 (a) and 1343.

5. The Court has Supplemental Jurisdiction over the Plaintiff's State Tort Claims Under 28 U.S.C. § 1337.

6. Program Administrator (Gary Karpin) have the power to Accommodate Petitioner Gary Feliciano To be in 2.5 drug programs by having him go directly To his Class From Module 3-B-Block, Round 1-Cell #9 To his Right. full 2.5 drug programs in A Direct Approval From Case Manager Negron. One who is in Charge of 2.5 drug programs at H.C.F. If Bed Space is Unavailable For Petitioner Gary Feliciano who have Multiple Disabilities.

7. Petitioner Gary Feliciano have a Medical Aid, Who Changes a Wheel Chair for him when need be.

8. THE Ninth Circuit has held that THE Americans with Disabilities Act (ADA) requires that Parole policies and practices Accommodate Inmates

with disabilities to ensure due process.

9. *Phyley v. Moore*, 129 F.3d 728, 735 (4th Cir. 1997) (Ex Post Facto Violation by retroactive application of Amended Furlough Statute that was functional equivalent of deprivation of Mandatory Parole)

10. See *Strickland*, 466 U.S. at 692 (Right to effective assistance of Counsel impaired when defense Counsel operates under conflict of interest because "Counsel breaches the duty of loyalty, perhaps the most basic of Counsel's duties").

11. Respondents should help any inmate to go forward including the disabled inmates.

12. 42 U.S.C. § 1981a(b)(1) (Punitive Damage Award proper in § 1983 Case if Respondent engaged in discriminatory practice with "Malice" or Reckless indifference to Federally protected Rights, which may be a higher standard than that of *Smith v. Wade*),

13. *Reynolds v. Giwilni*, 506 F.3d 183, 191 (2d Cir. 2007) (STATE OFFICIALS can be sued in official capacity for injunctive relief only when STATE is moving force behind Deprivation)

14. Colorable Claim

Petitioner Gary Feliciano Clearly Showed by Findings of Facts That he being discriminated upon and deprived of 2.5 drug programs Recommended by STATE OFFICIALS AT The HAWAIIAN CONVENTIONAL FACILITY Acted Under Color of STATE LAW in Procedural Due Process OF 2.5 drug programs depriving Gary Feliciano Petitioner in this Case for Probation. Above Named Respondents is The Moving Force behind Deprivation) AND ARE BEING SUED in Their Official Capacities in Punitive Damages in The Sum of \$350,000.00

15

Analysis

ARTICLE I Section 2 of THE UNITED STATES CONSTITUTION, Close Quote

"All Citizens of THE SEVERAL STATES ARE ENTITLED TO ALL IMMUNITIES, A PRIVILEGE OF THE SEVERAL STATES."

Conclusion

Wherefore This Court Should Grant This Petition For The foregoing Reasons.

Dated: Atten, Hawaii August , 1 2018.

Pursuant To 28 U.S.C. 51746 Respectfully Submitted by Gary G. Feliciano  
Petitioner Pro Se